

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 6556 of 1995
With
SPECIAL CIVIL APPLICATION No. 6557 of 1995
To
SPECIAL CIVIL APPLICATION No. 6558 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the civil judge ?

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MADRESA NAJUMANE ISLAMIA - Petitioner(s)
Versus
STATE OF GUJARAT & 11 - Respondent(s)

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Appearance :

MS MAMTA R VYAS for Petitioner(s) : 1,
MR SIRAJ GORI, AGP for Respondent(s) : 1 - 4.
MR DIPAK R DAVE for Respondent(s) : 5 - 12.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 13/06/2006

ORAL JUDGMENT

1. In this group of petitions, since identical questions of law and fact arise, they have been heard together and are being disposed of by this common order.
2. The petitioners-school managements have challenged the communication of the State Government produced at Annexure A to the petitions. In the said communication, the State Government has pointed out certain anomalies in pay fixation of some of the teachers employed by the petitioners. The communications indicate that there have been over-payments in favour of teachers which need to be corrected. In response to the said communication, the petitioners have also made representations and sought to point out that there has not been any over-payment and the question of recovery therefore would not arise.
3. Learned advocate Ms.Mamta Vyas for the petitioners fairly placed on record a judgment dated 27th January 2005 passed by this Court in Special Civil Application No.6346 of 1995 in somewhat similar factual background. The said

petition came to be turned down as being premature since after the initial communication, the department had not taken any further steps for recovery of over-payment, if any.

4. In the present petitions also, similar factual background obtains. The Government had indicated to the petitioners that according to the Government, there has been over-payment in favour of some of the teachers employed by the petitioners. The petitioners have represented against such stand of the Government. It would, therefore, be appropriate that the Government to take into account the stand of the petitioner and give its conclusion. Since individual teachers are also directly concerned with the final outcome of the issue, it would be open for them to file their representations/objections before the competent authority. This may be done within a period of four weeks from today. If so done, the competent authority shall take appropriate decision taking into account the representations of the school-management as well as the teachers who might have made such

representations. Until such time the final decision is taken, the interim arrangement made by this court shall continue. With these directions, the petitions are disposed of. Rule is made absolute too the limited extent with no order as to costs.

(Akil Kureshi, J.)

(vjn)